



COMMONWEALTH OF MASSACHUSETTS
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LAURIE BURT
Commissioner

July 16, 2008

In the Matter of Charles Bosworth

Docket No. WET-2008-013
DEP File Nos. 46-362
Milton

RECOMMENDED FINAL DECISION

This matter involves a request by the Petitioners, Martin and Mary Deane for an adjudicatory hearing on the terms of a Superseding Order of Conditions (the "SOC") issued by the Northeast Regional Office of the Department of Environmental Protection (the "Department") regarding certain activities upon property in Milton proposed by the Applicant, Charles Bosworth. Applicant's proposal was approved and conditioned by the SOC, after an appeal from a local Order of Conditions. Such SOC was issued by the Department under the provisions of the Wetlands Protection Act, M.G.L. c. 131, § 40, and associated regulations, 310 CMR 10.00, on January 28, 2008.

On March 7, 2008, the Petitioners delivered a written request to the Office of Appeals and Dispute Resolution ("OADR") to "withdraw their Notice of Claim of Adjudicatory Appeal of the Superseding Order of Conditions ("SOC"), which was issued by the Department of Environmental Protection ("DEP") on January 28, 2008." On March 14, 2008, Petitioners

delivered a complete copy of their request and of a settlement agreement between the Petitioners and the Applicant, as requested by Order of the Presiding Officer. In the written request, the Petitioners also state that they “respectfully request that this action be dismissed.” The Petitioners and the Applicant also filed a copy of a settlement agreement that they had executed to resolve their dispute in this matter. I make no comment upon nor ruling upon the terms of that Settlement Agreement, since it is not necessary for me to do so in order to recommend a resolution of this matter. No other party has objected to the requested withdrawal.

For the reasons set forth above, I recommend that the appeal be dismissed because it is moot. As a result, the Superseding Order of Conditions will become a final decision of the agency. *See, Matter of Osmun*, Docket No. DEP-04-958, 2005 Mass. Env. LEXIS 45, Final Decision – Order of Dismissal (May 12, 2005).

NOTICE

This decision is a Recommended Final Decision of the Presiding Officer. It has been transmitted to the Commissioner for her Final Decision in this matter. This decision is therefore not a Final Decision subject to reconsideration under 310 CMR 1.01(14)(e), and may not be appealed to Superior Court pursuant to M.G.L. c. 30A. The Commissioner’s Final Decision is subject to rights of reconsideration and court appeal and will contain a notice to that effect.

Because this matter has now been transmitted to the Commissioner, no party shall file a motion to renew or reargue this Recommended Final Decision or any part of it, and no party shall communicate with the Commissioner’s office regarding this decision unless the Commissioner, in her sole discretion, directs otherwise.

This final document copy is being provided to you electronically by the
Department of Environmental Protection. A signed copy of this document
is on file at the DEP office listed on the letterhead.

Laurel A. Mackay

Presiding Officer